IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 19798 of 2004(F)

PETITIONERS:

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1. R. PRAKASAN, SANITATION WORKER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE HOSPITAL, TRIVANDRUM.

2. M. SHIHABUDHEEN, SANITATION WORKER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.

3. N. VALSALA, SANITATION WORKER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE HOSPITAL, TRIVANDRUM.

4. G. SANTHA, SANITATION WORKER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.

5. R. VIJAYAKUMARI, CLEANER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.

6. B. SUSEELA, CLEANER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.

7. R. CHANDRIKA, CLEANER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.

8. P.K. REMANI, SWEEPER-CUM-CLEANER GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE HOSPITAL, TRIVANDRUM.

9. S. REMANI, SWEEPER-CUM-CLEANER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE HOSPITAL, TRIVANDRUM.

10. A. RAJILA BEEVI, SWEEPER, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

WP(C) NO: 19798/2004 F

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, HEALTH AND FAMILY WELFARE DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. THE PRINCIPAL & CONTROLLING OFFICER GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, IRANIMUTTOM, TRIVANDRUM.

3. THE SUPERINTENDENT, GOVERNMENT HOMEOPATHIC MEDICAL COLLEGE, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI. K.V.MANOJKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. 2450/E2/99/GHMCT OF THE R2 DT. 5/1/2004.

EXT.P2. COPY OF THE ORDER NO. 2450/E2/03/GHMCT OF THE R2 DT. 12/1/2004.

EXT.P3. COPY OF THE -DO- DT. 1/3/04.

EXT.P4. COPY OF THE JUDGMENT IN WA NO. 152/00 OF THIS COURT DT. 26/2/2003.

EXT.P5. COPY OF THE JUDGMENT IN OPNO. 8491/92 OF THIS COURT DT. 5/6/98.

RESPONDENT'S EXHIBITS : NIL.

True copy

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KURIAN JOSEPH J.

W.P.(C) No.19798 of 2004

Dated 6th July, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

> "To call for the records relating to Exts.P1 to P3 and quash the originals of the same to the extent it treat the petitioners as a provisional hand for 179 days of service under Rule 9(a)(i) of K.S.&S.S.R. by the issue of a writ of certiorari or other appropriate writ or order."

Learned Government Pleader submits that the petitioners have been appointed purely on provisional basis. There is no quarrel with the said submission. But the question is, what is the method of appointment to the posts against which the petitioners are appointed as provisional employees. It is the very same question that was considered in W.A.152/2000 leading to Ext.P4 judgment. If the appointment is through the Employment Exchange, and since there are vacancies, there is no point in appointing them on provisional basis. It is also submitted that in several other cases also, this Court has issued directions to take appropriate action in the light of Ext.P4 judgment. One such judgment is dated 14.7.2006 in W.P.(C) No.34629/04. Petitioners also shall be

entitled to the declaration that they are to be treated as having been regularly recruited against the posts, in view of Ext.P4 judgment. Ordered accordingly.

KURIAN JOSEPH, JUDGE.

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